IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

THURSDAY, THE 16TH AUGUST 2007 / 25TH SRAVANA 1929

OP.No. 15324 of 2000(Y)

PETITIONER:

THE MANAGER,
VHSS & HS, MANNADY,
KADAMPANAD SOUTH P.O.,
PATHANAMTHITTA DIST.

BY ADV. SRI.A.K.JAYASANKAR NAMBIAR

RESPONDENTS:
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1. STATE OF KERALA REPRESENTED
BY THE SECRETARY, GENERAL
EDUCATION DEPARTMENT,
SECRETARIATE, TRIVANDRUM.

2. THE DIRECTOR OF VOCATIONAL
HIGH SECONDARY EDUCATION
TRIVANDRUM.

3. M.R.MANOJ,
MANOJ BHAVAN,
MYLON P.O.,
KOTTARAKKARA.

BY ADV. SRI.LEGY ABRAHAM (FOR R3)
SRI.C.N.SIVANKUTTY

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 16/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON CMP NO.24937/2000 IN O.P. NO.15324/2000

DISMISSED

SD/-
16.8.07 T.R.RAMACHANDRAN NAIR, JUDGE

APPENDIX

PETITIONER'S EXHIBITS:

EXT. P1: COPY OF THE STATEMENT OF ALLEGATIONS AND MEMO OF CHARGES ISSUED TO THE 3RD RESPONDENT.

EXT. P2: COPY OF THE DETAILED REPLY TO EXT. P1 MEMO OF CHARGES.

EXT. P3: COPY OF THE ENQUIRY REPORT.

EXT. P4: COPY OF THE LETTER SENT BY THE PETITIONER, THE 3RD RESPONDENT PREFERRED A DETAILED REPLY DATED 8-11-99.

EXT. P5: COPY OF THE LETTER DATED 16-11-99 ISSUED TO THE 3RD RESPONDENT.

EXT. P6: COPY OF THE LETTER SENT BY THE 3RD RESPONDENT DATED 22-11-99.

EXT. P7: COPY OF THE ORDER DATED 3-12-99.

EXT. P8: COPY OF THE LETTER DATED 16-12-99 OF THE 2ND RESPONDENT.

EXT. P9: COPY OF THE ORDER DATED 19-4-2000 OF THE 2ND RESPONDENT.

RESPONDENT'S EXHIBITS:

EXT. R2(A): COPY OF G.O.(RT) NO.2802/96/GE DT.31/8/96.

/TRUE COPY/

P.A. TO JUDGE

JP

T.R.RAMACHANDRAN NAIR, J.

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O.P.No. 15324 of 2000-Y.

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Dated this the 16th day of August, 2007.

J U D G M E N T

The challenge in this Original Petition is against Ext.P9 order passed by the Director of Vocational Higher Secondary Education cancelling the proceedings of the Manager and directing fresh enquiry under the Kerala Civil Service (Classification, Control & Appeal) Rules. The issue relates to the disciplinary proceedings taken against the 3rd respondent herein who was working as a clerk in the school in question. As per Ext.P7 the 3rd respondent was removed from service from V.H.S.S., Mannady.

2. The main ground on which the challenge is made is that the authority had no jurisdiction as the matter is not covered by the provisions of the Kerala Education Act and Rules. Further it is submitted that the Kerala Civil Service (Classification, Control & Appeal) Rules will not apply herein also. A Full Bench of this Court in Varghese v. D.D.E. [2000(2) KLT 109 (FB).] was held that, in the absence of any rules and until separate rules prescribing service conditions are framed executive orders will govern the field. The question considered therein was whether the Deputy Director of Education has power or jurisdiction to initiate disciplinary proceedings

against a teacher of Higher Secondary School.

3. The counsel for the 3rd respondent submits that the petitioner has already submitted his resignation from the school and therefore the dispute in question does not subsist also. Following the Full Bench decision I quash Ext.P9 as the authority has no jurisdiction to pass it. No further orders are called for in the light of subsequent developments as noted above.

T.R.RAMACHANDRAN NAIR, JUDGE.

Kvs/-